

## **REMARKS**

Applicant is in receipt of the Office Action mailed February 23, 2006. Claims 1-3, 5-16, and 24-31 were rejected. Claims 1-3, 6, 9-14, and 16 have been amended. Reconsideration of the present case is earnestly requested in light of the following remarks.

### **Section 102 Rejections**

Claims 24-31 were rejected under 35 U.S.C. 102(b) as being anticipated by Kerrigan (U.S. Patent No. 5,404,488, "Kerrigan"). Applicant respectfully traverses this rejection.

Claim 24 recites in pertinent part, "(c) appending one or more bits to a first header record wherein the header record comprises a series of bits, wherein each bit in the series of bits represents a section of the stored measurement data in the shared memory location". As argued in the response to the previous Office Action, Kerrigan does not teach this limitation.

The Examiner asserts that, "the system in Kerrigan has the capabilities of identifying to have both the real time data and the data last sent to the application, so it inherently has some sort of identifier or 'header' linked with both sets of data in order for the system to tell which version it has and the ability to compare those values. However, Applicant notes that there are a plethora of possible means for performing these functions, and it is not inherent that Kerrigan has a header linked with both sets of data, as asserted by the Examiner. For example, Kerrigan could store information regarding the data last sent to the application in a database.

Furthermore, Applicant respectfully notes that claim 24 does not recite "some sort of identifier or 'header'", but specifically recites that the first header record comprises a series of bits, wherein each bit in the series of bits represents a section of the stored measurement data in the shared memory location. Thus, even if it were inherent in Kerrigan to use "some sort of identifier or 'header'", as asserted by the Examiner, this still would not amount to teaching the specific limitations recited in claim 24. Applicant respectfully reminds the Examiner that anticipation requires the presence in a single prior

art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (*Emphasis added*)

Furthermore, claim 24 also recites, “repeating (a) - (d) for second and subsequent measurement data wherein a second header record is created when the first header record reaches a user specified number of bits and subsequent header records are created when the second header record reaches the user specified number of bits.” Applicant respectfully submits that Kerrigan teaches nothing whatsoever about a user specified number of bits (i.e., a number of bits specified by a user) which determines when to create second or subsequent header records.

Applicant thus respectfully submits that Kerrigan does not teach all of the limitations recited in claim 24, for at least the reasons set forth above, and thus, claim 24 is patentably distinct over Kerrigan.

### Section 103 Rejections

Claims 1-3 and 5-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kerrigan in view of Greenfield (U.S. Patent No. 6,684,207, “Greenfield”). Applicant respectfully traverses this rejection.

Applicant respectfully submits that Kerrigan and Greenfield do not form a *prime facie* case of obviousness for several other reasons. For example, Greenfield is not analogous art with respect to the subject matter recited in the present claims. Applicant respectfully reminds the Examiner that, “In order to rely on a reference as a basis for rejection of an applicant’s invention, the reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

The subject matter recited in claims 1-3 and 5-16 relates to the field of automated test and measurement systems, e.g., where measurement devices are used to acquire real time measurement data from physical systems. In contrast, Greenfield relates to online analytical processing (OLAP) systems. At Col. 1, line 17 – Col. 2, line 39, Greenfield describes that OLAP applications are used to analyze a company's business data, e.g., to answer questions such as, "How do sales in the Southwestern region for this month compare with plan or with sales a year ago?" This is clearly not the same field as Applicant's endeavor.

More specifically, claims 1-3 and 5-16 are directed toward the problem of transferring a stream of real time measurement data values acquired by a measurement device from a first computer system to a second computer system. In contrast, Greenfield simply relates to a system in which an OLAP service module and a relational database management system reside in separate tiers and communicate through a protocol such as CORBA. The problem of a process communicating with a relational database management system located in a separate tier is not at all the same as the problem of transferring a stream of real time measurement data values across computer systems.

Applicant thus respectfully submits that Greenfield is not analogous art with respect to the subject matter recited in claims 1-3 and 5-16.

Furthermore, Applicant also respectfully reminds the Examiner that, "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)" as stated in the MPEP §2142.

Applicant respectfully submits that Kerrigan and Greenfield, taken either singly or in combination, do not teach all of the limitations recited in claims 1-3 and 5-16. For example, amended claim 11 recites as follows:

11. (Currently Amended) A method of logging and trending real time measurement data, the method comprising:

a logger application executing on a first computer system writing a first plurality of real time measurement data values to a first shared memory section in the first computer system during a first time period, wherein the first plurality of real time measurement data values are acquired from a physical system by a measurement device;

initiating a trender application;

the trender application executing on a second computer system generating a query request for the first plurality of real time measurement data values and sending the query request to the first computer system;

the first computer system sending a single message to the second computer system, wherein the single message comprises the first plurality of real time measurement data values.

As noted above, Greenfield relates to OLAP applications for analyzing a company's business data. Greenfield is not even remotely related to automated test and measurement systems and clearly does not teach, "the first computer system sending a single message to the second computer system, wherein the single message comprises the first plurality of real time measurement data values."

Furthermore, there is no clear and particular teaching or suggestion for combining Kerrigan and Greenfield. The Examiner asserts that the motivation to combine would be "to allow applications on remote systems to gain access to the real-time information measurement streams to perform remote analytical processing on the data in the database". However, Applicant notes that neither of the cited references teaches or suggests the concept of performing analytical processing on real time measurement data values acquired from a physical system by a measurement device. As noted above, Greenfield relates to performing analytical processing on business data, not real time measurement data values. Applicant respectfully submits that the Examiner's asserted motivation is no more than hindsight, since there is no initial suggestion to make the combination in the references themselves.

Furthermore, Applicant notes that claim 11 recites, "sending a single message to the second computer system, wherein the single message comprises the first plurality of real time measurement data values." Even if Kerrigan and Greenfield did combine to teach the concept of sending real time measurement data values from one computer for remote analysis on a second computer (which Applicant argues that they do not), this still

would not amount to teaching the specific limitation recited in claim 11 of sending the first plurality of real time measurement data values in a single message. Neither of the cited references teaches sending a plurality of measurement data values in a single message, e.g., as opposed to multiple messages.

Applicant thus respectfully submits that claim 11 is patentably distinct over Kerrigan and Greenfield, for at least the reasons discussed above. Inasmuch as claim 1 recites similar limitations as claim 11, as well as additional limitations, Applicant respectfully submits that claim 1 is also patentably distinct over Kerrigan and Greenfield.

Since the independent claims have been shown to be patentably distinct over the cited references, Applicant submits that the dependent claims are also patentable distinct, for at least this reason. Applicant also respectfully submits that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-57700/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☒ Request for Continued Examination Transmittal

Respectfully submitted,



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